REMARKS

With the above amendments, claims 1 and 3-9 remain in the application and stand finally rejected. Claim 2 has been canceled in this response.

Reconsideration of the rejection is respectfully requested in light of the following reasons.

A. Objection To Specification/Claim Rejection -- 35 U.S.C. § 112

The specification is objected to under 35 U.S.C. § 112, first paragraph, for failing to provide an enabling disclosure. Claims 1-9 are rejected under 35 U.S.C. § 112, first paragraph, based on the objection to the specification. The objection to the specification and the rejection of claims 1-9 under 35 U.S.C. § 112, first paragraph, are respectfully traversed.

The last office action contends that the claim limitation "installing a computer program in the computer, the computer program being partially disabled as installed" and "using the computer program to detect a need for the computer program in the computer" are not enabled because, according to the last office action, the "**specification merely describes the process** wherein the computer program is installed but remains partially disabled (i.e., inactive) until the user accepts it (specification, page 30, lines 102) and the process wherein the user's need for the computer program is detected (specification, page 30 line 5, fig. 10 item #1004) and further applicant does not disclose or suggest how the user's need for the computer program is detected, neither in the specification nor in the drawings (see fig. 10)" (emphasis added).

As evidenced by the portions of the specification cited in the last office action, the function of a process for each of the aforementioned limitations is disclosed in the specification. This is all that is required to enable a best mode of a software related invention as mandated by the Court of Appeals For The Federal Circuit.

> As a general rule, where software constitutes part of a best mode of carrying out an invention, description of such a best mode is satisfied by a disclosure of the

> functions of the software. This is because, normally, writing code for such software is within the skill of the art, not requiring undue experimentation, once its functions have been disclosed. *Fonar Corp. v. General Electric Company*, 107 F.3d 1543, 1549 (Fed. Cir. 1997)

The last office action thus fails to establish a prima facie case of non-enablement, especially given that the last office action has not provided any reasonable basis to question the enablement provided in the specification. See MPEP, § 2164.04.

The limitation "installing a computer program in the computer, the computer program being partially disabled as installed" is enabled at least on page 29, line 20 to page 30 line 4 and FIG. 10, action 1002 of the specification.

> Also, the computer program is installed but remains partially disabled (i.e., inactive) until the user accepts it. For a window-blocking computer program, window analyzer 308 detects bad windows and good windows but will not block any window. Specification, page 30, lines 1-4.

That is, a partially disabled program may be a window analyzer 308 configured to detect bad windows and good windows **but does not block any window**. This partially disables window analyzer 308 as the window analyzer 308, when not partially disabled, blocks certain types of windows, as disclosed throughout the specification and at least on page 11, lines 10-20 and FIG. 3 (window analyzer 308). The window analyzer 308 may remain in this partially disabled state until the user accepts the computer program, at which point it is fully activated (Specification, FIG. 3, action 1010, page 31, lines 1-5).

The limitation "using the computer program to detect a need for the computer program in the computer" is enabled at least on page 30, lines 5-13 and FIG. 10, action 1004 of the specification.

> In action 1004, the user's need for the computer program is detected. In the window-blocking computer program example, scorekeeper 318 keeps track of the number of bad windows detected by window analyzer 308.
>
> In actions 1006 and 1008, the user is informed of the usefulness of the computer program, and is thereafter offered the computer program. In the window-blocking computer program example, window analyzer 308 commands UI manager 320 to display the results of scorekeeper 318 once the number of detected bad windows reaches a certain threshold (e.g., 2 bad windows in a given session). The threshold may be varied depending on implementation. Specification, lines 5-13.

As explained in the specification, the user's need for the computer program may be detected, for example, by using the scorekeeper 318 to keep track of the number of bad windows detected by the window analyzer 308 (Specification, page 30, lines 5-7). The need for the computer program may be based on the number of bad windows detected in the computer. If the number of bad windows detected exceeds a particular threshold (e.g., 2 bad windows in a given session), it means the user needs the program (Specification, page 30, lines 8-13). In which case, the UI manager 320 displays the result of the scorekeeper 318 to the user, in actions 1006 and 1008.

At least for the above reasons, it is respectfully submitted that the specification provides more than enough guidelines to one of ordinary skill in the art to practice the claimed invention. Accordingly, claims 1 and 3-9 meet the mandates of 35 U.S.C. § 112, first paragraph.

B. Claim Rejection -- 35 U.S.C. § 103 (InfoWorld and Humes)

Claims 1-4 and 6-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "Release Software and Demo 97 DemoLetter to Provide Real Demos online," pp. 1-2, February 1997 ("InfoWorld") in view of U.S. Patent No. 5,996,011 to Humes ("Humes"). The rejection is respectfully traversed.

Claim 1 is patentable over InfoWorld and Humes at least for reciting: "informing the user of usefulness of the computer program when the user tries to uninstall the computer program after accepting the offer." This limitation is supported at least on page 30, lines 18-23 of the specification. It is respectfully submitted that neither InfoWorld nor Humes teaches or suggest actions to be performed when a user tries to uninstall a computer program. Therefore, claim 1 is patentable over InfoWorld and Humes.

Claims 2-4 and 6 depend on claim 1 and are thus patentable over InfoWorld and Humes at least for the same reasons that claim 1 is patentable.

Claim 3 recites "wherein the act of informing the user of usefulness of the computer program includes informing the user a number of a type of window detected by

the computer program." Humes detects contents received from web sites (i.e. web page). The last office action reads "website or web page as a type of window." Applicants respectfully disagree with this conclusion. A window in the context of computers is a notoriously well understood term. Humes cannot and does not detect types of windows; Humes can only detect contents and source of contents (i.e., information) displayed in a window (a browser window), not the type of the window itself.

The last office action is correct in the interpretation that the term "window" is used to refer to any mechanism for presenting information to a user. The specification provides:

> In the present disclosure, the term "window" is used to refer to any mechanism for presenting information to a user. Thus, the term "window" also includes message boxes, dialog boxes, text boxes, banners, etc. A window may be associated with a web browser, or may be generated as a result of receiving information from another computer over a computer network or from a local computer program. Specification, page 5, line 19 to page 6, line 1.

This is also consistent with the common usage of the term "window." However, a mechanism for presenting information is **NOT** the information itself. Here, a web page of a website is merely information and cannot be used **to present** itself (i.e., the information). A web page needs to be included in a window to be presented to a user. Humes does not disclose detecting types of windows, let alone informing the user the number of a type of window detected.

Even in the improper construction that content is "a window" (it is not), Humes does not teach or suggest informing the user of **the number** of "types of websites or web pages" that have been filtered. While Humes uses a scoring system to determine whether to filter a web page, **the score itself is never presented to the user for any purpose**.

Claim 6 recites "wherein the computer program includes a window-blocking computer program." Humes discloses a computer program for filtering contents of websites or web pages. Humes does not teach or suggest a window blocking computer program. In Humes, the contents of a website are displayed in a browser window. Humes' computer program may allow for filtering of the contents displayed in the

browser window, but it does not and cannot block the browser window itself (if there is any sense to doing that) or other windows.

Like claim 1, claim 7 is patentable over InfoWorld and Humes at least for reciting: "informing the user of usefulness of the computer program when the user tries to uninstall the computer program after accepting the offer."

Claims 8 and 9 depend on claim 7 and are thus patentable over InfoWorld and Humes at least for the same reasons that claim 7 is patentable.

C. Claim Rejection -- 35 U.S.C. § 103 (InfoWorld, Humes, and Cinecom)

Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over InfoWorld in view of Humes and further in view of Cinecom, document #1043564 ("Cinecom"). The rejection is respectfully traversed.

Claim 5 is patentable over InfoWorld, Humes, and Cinecom at least for reciting: "wherein the act of providing the computer program to the user includes downloading **components** of the computer program from a remote computer." Note that per claim 1, this downloading of components of the computer program occurs after the user accepts the offer, which occurs after installation of the computer program.

As noted in the last office action, InfoWorld and Humes do not disclose the process wherein the act of providing the computer program to a user includes downloading components of the computer program from a remote computer. Neither does Cinecom. Cinecom only discloses downloading trial **or** full versions of a computer program, not **components** of the computer program from a remote computer. More specifically, Cinecom does not teach or suggest downloading from a remote computer, components of a trial version or full version of a computer program after the trial version or the full version of the computer program has been accepted by the user, which offer must occur after the trial version or the full version of computer program has already been installed in the computer beforehand.

For at least the above reasons, claim 5 is patentable over InfoWorld, Humes, and Cinecom.

Conclusion

For at least the above reasons, it is believed that claims 1 and 3-9 are in condition for allowance. The Examiner is invited to telephone the undersigned at (408)436-2112 for any questions.

If for any reason an insufficient fee has been paid, the Commissioner is hereby authorized to charge the insufficiency to Deposit Account No. 50-2427.

Respectfully submitted,
Jax B. Cowden et al.

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